

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION**

**MARK BOWLING**

**PLAINTIFF**

**v.**

**No. 4:19-CV-909 JM**

**WILLIAM BARR,  
In his Official Capacity as Attorney  
General of the United States  
UNITED STATES DEPARTMENT OF  
JUSTICE, an executive agency of the  
United States Federal Government;  
UNITED STATES FEDERAL  
BUREAU OF INVESTIGATION  
a division of United States Department  
of Justice**

**DEFENDANTS**

**MOTION TO DISMISS**

Defendants William Barr, in his official capacity as Attorney General of the Department of Justice, and the Federal Bureau of Investigation, by and through Cody Hiland, United States Attorney for the Eastern District of Arkansas, and Jamie Goss Dempsey, Assistant U.S. Attorney, state as follows for their motion to dismiss:

1. Plaintiff Mark Bowling filed his *pro se* amended complaint on May 13, 2020. *See* Am. Compl., Doc. No. 11. In his amended complaint, he asserts that he suffered religious discrimination and he purports to seek relief under Title VII, 42 U.S.C. § 2000e; the Civil Rights Act, 42 U.S.C. § 1981; the Civil Service Reform Act; the Whistleblower Protection Act, the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 215(a)(3); and the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 2671-2680. *See* Am. Compl., Doc. No. 11, at 2, 21-28.

2. Bowling's complaint should be dismissed for failure to state a claim for which relief may be granted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure because the exclusive action in an employment discrimination case arises under Title VII, and Bowling has failed to exhaust his administrative remedies for the Title VII claims he raises in his complaint.

3. His claims based on his assertion that he suffered retaliation as a whistleblower also fail to state a claim for which relief can be granted and should be dismissed pursuant to Rule 12(b)(6).

4. Bowling's claims that purportedly arise under the FTCA likewise fail to state any claim for which relief can be granted and should be dismissed.

5. A brief in support of this motion is filed herewith and incorporated herein.

WHEREFORE, defendants William Barr, in his official capacity as Attorney General of the Department of Justice, and the Federal Bureau of Investigation, respectfully request the Court dismiss plaintiff's complaint with prejudice, and for all other just and proper relief.

Respectfully submitted,

CODY HILAND  
United States Attorney  
Eastern District of Arkansas

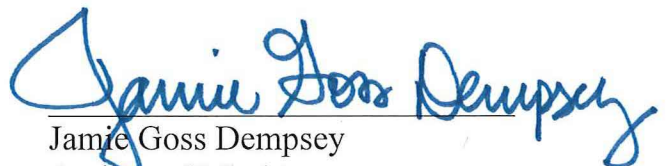


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**CERTIFICATE OF SERVICE**

This will certify that a true and correct copy of the foregoing was filed with the Court *via* CM/ECF and a copy was sent *via* U.S. Mail on this 18th day of June, 2020, to the following:

Mark Bowling  
711 E. Saline Circle  
Benton, AR 72019  
[m.d.bowling@att.net](mailto:m.d.bowling@att.net)



Jamie Goss Dempsey  
Assistant U.S. Attorney